

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAVONTAE RAY HUNLEY,

Plaintiff,

v.

OFFICER RICHARD FREDERICKS,
OFFICER JOSEPH SPINGOLA, and
SGT. THOMAS LIESKE,

Defendants.

Case No. 18-CV-1775-JPS

ORDER

Plaintiff, a prisoner proceeding in these action *pro se*, is incarcerated at Green Bay Correctional Institution. Plaintiff was allowed to proceed on a claim that Defendants, City of Milwaukee police officers, used excessive force against him in effectuating an arrest, in violation of the Fourth Amendment. (Docket #8 at 3–4). Defendants filed a motion for summary judgment on September 9, 2019. (Docket #21). They maintain that they used only a moderate amount of force necessary to restrain Plaintiff, who had fled, was currently resisting the officers, and appeared ready to flee again. *See* (Docket #22). Defendants further note that Plaintiff had no significant injuries from the arrest and the interaction took approximately thirty seconds. *Id.* Defendants argue that their use of force was objectively reasonable under the circumstances, and so did not violate the Fourth Amendment. *Cyrus v. Town of Mukwonago*, 624 F.3d 856, 861–62 (7th Cir. 2010).

Plaintiff's response to Defendants' motion was due on or before October 9, 2019. Civ. L. R. 7(b). That deadline has long-since passed and no

response has been received. Indeed, the Court has not received any communications from Plaintiff since his last filing, which was a motion for appointment of counsel submitted on August 9, 2019. (Docket #19). The Court will, therefore, grant Defendants' motion for two reasons. First, Plaintiff's failure to respond to the motion is sufficient grounds for the Court to grant it. Civ. L. R. 7(d). Second, in accordance with the rules of summary judgment procedure, the facts as presented by Defendants are undisputed. *See* Fed. R. Civ. P. 56(e); Civ. L. R. 56(b)(4). Those undisputed facts, and the legal arguments in Defendants' brief, demonstrates that Plaintiff's claims must be dismissed.¹

Accordingly,

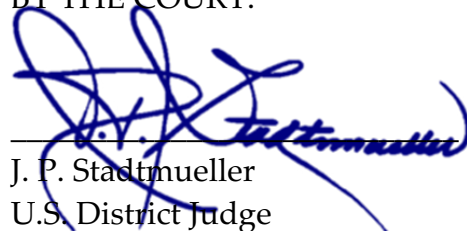
IT IS ORDERED that Defendants' motion for summary judgment (Docket #21) be and the same is hereby **GRANTED**; and

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED with prejudice**.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 20th day of December, 2019.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge

¹Defendant Sgt. Thomas Lieske did not formally join the summary judgment motion because he has not been served with the complaint; he is currently deployed to Iraq. (Docket #22 at 1). He is entitled to summary judgment, however, on the same basis as the other defendants, so the Court will dismiss the claim against him at this juncture and dismiss the case in its entirety.